

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

JANE DOE, as next friend for "JESSY,"
a minor, and "SOLOMON",

Plaintiffs,

v.

EDWARD CHARLES DINKFELD,

Defendant.

Case No.:2:19-cv-01554ODW-SS
DECLARATION OF CAROL L.
HEPBURN IN SUPPORT OF
OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS

NOTE ON MOTION
CALENDAR:

CAROL L. HEPBURN, P.S.

ATTORNEYS AT LAW

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SEATTLE, WA 98119

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CAROL L. HEPBURN hereby declares the following to be true and correct under penalty of perjury of the laws of the State of California:

1. I am one of the attorneys representing the Plaintiffs “Jessy” and “Solomon” in this action (“Jessy” and “Solomon”, or “Plaintiffs”). I make this Declaration in support of their Opposition to Defendant’s Motion to Dismiss.

2. The telephone call which Defense counsel alleges was a meet and confer covered only the single issue of specificity and not the several issues raised in the pending defense motion. Plaintiffs agreed to make the complaint more specific yet this motion was filed nonetheless. Defense counsel Robert Helfend emailed all plaintiffs' three counsel concerning arranging a meet and confer.

After some back and forth in which I confirmed that I wanted all plaintiffs' counsel on the call, Mr. Helfend cold-called me afternoon of May 15, 2019. He called me reportedly from his car and informed me that the issue was "simple" and that the others did not need to be on the call. He said that paragraph 23 of the complaint was not specific enough. He said under *Twombley* it needed to be more specific.

3. During the phone call on May 15, 2019 Defense counsel Mr. Helfend said nothing about, nor raised any questions concerning, the status of

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1 Jane Doe, next friend for Plaintiff Jessy as is alleged in Defendants memorandum
2 supporting his motion at page 3, Paragraph I. Introduction. Had that issue been
3 raised I would have advised Mr. Helfend that -- "Jane Doe" is not alleging injury
4 or seeking damages on her own behalf, that she is named in this action only as
5 Next Friend for a minor who does not have the legal capacity to appear and make
6 decisions in this litigation on his own behalf. Had this issue been raised by Mr.
7 Helfend in the call he made to me I would have offered to put that clarification in
8 writing, either through an amended complaint or by letter.

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13 4. In the phone call of May 15, 2019 Mr. Helfend said nothing about
14 the allegations in the complaint concerning personal jurisdiction being inadequate
15 as he alleges in his Memorandum at page 3, Paragraph I. Introduction.

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18 5. In the phone call of May 15, 2019 Mr. Helfend said nothing about
19 Plaintiffs' claims being invalidated because they received restitution under the
20 criminal matter as a result of Mr. Dinkfeld's conviction as he alleges in his
21 Memorandum at page 3, Paragraph I. Introduction.

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25 **CAROL L. HEPBURN, P.S.**

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1 6. After reviewing paragraph 23 of the Complaint I emailed Mr.
2 Helpend the same May 15 and advised that we would make the complaint more
3 definite and certain and inquired whether he wanted that in a pleading or a letter.
4 (A true and correct copy of the entire email thread is attached hereto at Exhibit 1
5 hereto.) Set forth in the email is also the confirmation that paragraph 23 was the
6 only issue discussed during the call. Plaintiffs' co-counsel John Kawai further
7 responded that same day that paragraph 23 could be read together with
8 paragraphs 9-11 and 12-14 to provide more specificity.
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13 7. When Mr. Helpend did not respond to my email I again emailed him
14 on May 21, 2019 and reiterating that we would make the allegations more
15 specific and inquiring as to his preference for form. His response at that time was
16 that "Mr. Dinkfeld is considering his options." This motion followed. Attached
17 hereto as Exhibit 1 is a true and correct copy of the email thread showing my
18 original email to Mr. Helpend on May 15, Plaintiffs' counsel Mr. Kawai's
19 comment that paragraphs 9 – 11, and 12 – 14 might be considered to expand on
20 paragraph 23 of the complaint, my followup email on May 21 having not received
21 a response from Mr. Helpend, and Mr. Helpend's response concerning defendant
22 "considering his options."

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1 8. There was no more substance to any "meet and confer"
2 communication between Mr. Helfend and myself other than is set forth in this
3 declaration. No "thorough" discussion took place. I never received a response to
4 my inquiry concerning what form Plaintiffs might use for the further specification
5 of facts.

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7 9. Attached hereto as Exhibit 2 is a true and correct copy of the
8 Judgment of conviction of Defendant Dinkfeld of the crimes of Travel with Intent
9 to Engage in Illicit Sexual Conduct with a Minor in violation of 18 U.S.C.
10 §2423(b) and Receipt of Child Pornography in violation of 18 U.S.C.
11 §2252A(a)(5)(B), (b)(2) in *United States v. Dinkfeld*, Case. No. CR 17-482-R,
12 United States District Court, Central District of California.

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14 10. Attached hereto as Exhibit 3 is a true and correct copy of the
15 Stipulation Regarding Restitution signed by Defendant Dinkfeld and his counsel
16 Robert Helfend and entered into with the Government and filed in the matter of
17 *United States v. Dinkfeld* on May 7, 2018.

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25 CAROL L. HEPBURN, P.S.

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11. Attached hereto as Exhibit 4 is a true and correct copy of the Order Regarding Restitution entered in the matter of *United States v. Dinkfeld* on May 9, 2018.

DATED this 12th day of June, 2019, at Seattle, Washington.

CAROL L. HEPBURN, P.S.

/s Carol L. Hepburn
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